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REMARKS

The undersigned acknowledges the courteous treatment extended to my representative Mr. Belkin during the course of a personal interview held with Examiners Cajilig and Canfield on December 5, 2007. During the interview, Mr. Belkin pointed out how the claims proposed to be amended distinguish over the applied prior art patents.

The specification was objected to as failing to provide proper antecedent bases for the claimed subject matter, and claims 1, 11 and 21 were rejected as failing to fulfill the written description requirement.

This objection and rejection are based upon the Examiner's position that the specification fails to support such expression as the "single wythe wall does not have flashing". During the interview, it was pointed out that under the Summary of the Invention, third paragraph from the end, there is ample support for such language. However, to clarify the specification in this regard, a substitute sheet for Figure 1 is submitted with new reference numerals added and the second paragraph under the Description of the Preferred Embodiments changed to refer to the new numerals, providing detailed support for the claim language which the Examiner found to be unsupported in the specification.

In addition, there is the question of the channels for directing water away from the wall. In the amendment of the second paragraph under the Description of the Preferred Embodiments noted above, the present amendment includes language added to the specification describing that in addition to there being no flashing between the single wythe wall and the top of the foundation wall the top surface of the foundation wall has a drainage weep hole channel device.. This is clearly illustrated in Fig. 1, which in the replacement sheet includes reference numerals 5a for the lowest course of blocks sitting on foundation fitting 12, which sits in the ground 13. Replacement drawing Figure 1 also shows mortar 11 directly contacting the foundation fitting 12, with no flashing therebetween as

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noted above. Weep hole channel device 14, which only interrupts the mortar bond between lower blocks 5a and foundation fitting 12 slightly, is also depicted. The second paragraph under Description of the Preferred Embodiments discusses the weep hole device, in paragraph 0046 of the Applicant's published application 20050155309.

Thus it is believed that no new matter is added by the foregoing amendments to the specification and Figure 1 of the drawings.

In a telephone conversation with Examiner Cajilig the day after the personal interview, my Mr. Belkin pointed out that the present disclosure does not include channels in the top surface of the foundation wall, correcting an apparent misunderstanding.

Claims 11-15 were rejected as being Indefinite because of the use of the expression "consisting of". This expression has been changed to "comprising".

The Examiner also raised questions about the "double inclusion" of the upwardly extending water-permeable body". Reconsideration is requested on the grounds that in claim 11 it is stated that this body has a transverse section which decreases upwardly, claim 12 describes the shape as pyramidal, claim 13 describes the shape as a conical one, and claims 14 and 15 that the shapes in claim 11 are truncated pyramidal and tapered conical, respectively. It is believed that no redundancy is involved.

Claims 1-7 9-17, 19-21 and 40-43 were rejected as being unpatentable over Sourlis '037 in view of Sourlis '189.

Sourlis '037 has a single course of blocks on a foundation wall with a block 30 of permeable material in each cavity of the bottom row of blocks. Flashing is employed below the bottom row of blocks and the foundation wall (pars. 0011 and 0033 to 0036) with a layer of permeable material on the upper surface of the flashing member with the layer of permeable material having "transverse channel portions 48" extending to a front edge of the flashing member (par. 0036). It

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appears therefore that all the weeping channels are above the flashing. The Examiner states that this reference has a "bottom course of masonry elements resting on a foundation wall (18) without flashing and having inner cells communicating through at least one drainage weep hole channel (24, 28, 48) on a top surface of said foundation wall". Figures 3 and 4 of this reference clearly show that the permeable layer and the channel portions 48 are on top of flashing member 24.

Sourlis '189 was cited for a water permeable member 24 which "has a lower end that is substantially filling a hollow recess area (16)". This reference shows a double wall construction employing flashing with drainage channels above the flashing and the hollow recess area 16 referred to by the Examiner is the space between the two walls, not a recess within any masonry block, as claimed in the present invention.

In other words, and as pointed out in an earlier amendment, the Examiner has combined references neither of which shows the particular shape of the permeable member being claimed in the locations called for in the claims, and neither of which does not use flashing, to reject claims all of which call for all of these features.

Independent claims 1, 11 and 21 have been amended to be more specific about the novel features discussed above and which are not taught or suggested in either or both of these references either singly or in any conceivable combination.

During the interview, Mr. Belkin showed to the Examiner the 132 Declarations of Neal Spevack of Smithtown Concrete Supply and Louie Giaquinto of Astro Mason Supply, both knowledgeable in the masonry field to which this invention applies, as testimonials attesting to the new and unexpected beneficial results of Applicant's claimed subject matter in the masonry industry.

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Mr. Spevack declares that the pyramid drainage device of the claimed subject matter greatly enhances the performance of Concrete Block walls commonly used in today's buildings. With over thirty years experience in the masonry industry and having served on committees of the National Concrete Masonry Association, Mr. Spevack notes that the Applicant's pyramid drainage device is unique in its configuration and best serves the function it was intended for. He states that no other product currently available in the construction market has the ease of installation and actual effectiveness in allowing concrete masonry walls to release water that may internally accumulate in the wall either during the construction process or thereafter. He says also that the device solves a long felt need in the industry, namely, to effectively weep our concrete block walls. He says that Applicant's device is the first system that easily allows water drainage to escape our concrete block walls in a well controlled manner with no ill effects upon the building or its walls.

Mr. Giaquinto declares that Applicant's pyramid device is very creative and that he hasn't seen anything in his Industry with this distinctive pyramid shape, which, he notes, performs an important function of diverting mortar debris and allowing any water which gets into the block wall a way to weep out. This is very important function within our industry for single wythe walls. He also notes that Applicant's device can be easily installed with out any flashing materials (such as are apparently required in the cited Sourlis references). Mr. Giaquinto states that flashing materials are used to trap and divert water to the weeps, and are made of various materials such as metal, PVC plastic and rubber, all items of which mortar doesn't bond to and most of the time require a double wythe of block to create a cavity. He further declares that Applicant's Pyramid Weep Device needs no flashings or double wythe block course making it very different from any other product being sold as a weep device. He also notes that he looks forward to its

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introduction into the masonry industry and that it adds a great benefit to aid in the weeping of water from single wythe block walls

For the reasons given above, it is believed that all claims remaining clearly distinguish over the applied art and should be allowed.

The Examiner is requested to call the undersigned if further changes are required to obtain allowance of the application.

A favorable action is solicited.

Respectfully submitted,



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Dated: Dec. 7, 2007

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I certify that the aforementioned Amendment is being sent by fax
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Dated: Dec. 7, 2007


Alfred M. Walker